

22/Appeal
Brief(3)
Case 8287

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of :
M.M. Peffly et al. :
Serial No. 09/685,850 :
Confirmation No. 4193 : Group Art Unit 1615
Filed October 10, 2000 : Examiner: R.M. Bennett

For SCALP COSMETIC COMPOSITIONS AND CORRESPONDING METHODS OF
APPLICATION TO PROVIDE SCALP MOISTURIZATION AND SKIN ACTIVE
BENEFITS

Be
3-13-03

APPEAL BRIEF

Assistant Commissioner for Patents

Washington, D.C. 20231

Dear Examiner:

This Appeal Brief is submitted in support of the Notice of Appeal transmitted to the PTO via facsimile on March 12, 2003, which set a two-month period for response.

REAL PARTY IN INTEREST

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio. The Inventors, Marjorie Mossman Peffly and Anthony Raymond Marchetta, assigned their interest to the Procter & Gamble Company on October 9, 2000. This assignment was recorded in the USPTO on January 24, 2002 at reel 012531 and frame 0040.

RELATED APPEALS AND INTERFERENCES

Co-pending Application, Serial No. 09/685,536, Case 8286, is also being appealed. This application was filed on October 10, 2000, and the Notice of Appeal and Appeal Brief were filed on March 12, 2003.

STATUS OF CLAIMS

On March 12, 2003, Appellants appealed the final rejection of pending Claims 1-46 and 53-69 to the Board of Patent Appeals and Interferences ("the Board"). Claims 1-69 were originally filed, and Claims 47-52 were cancelled. This Appeal Brief therefore addresses Claims 1-46 and 53-69. A complete copy of the appealed claims is set forth in the Appendix.

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STATUS OF AMENDMENTS

There were no amendments filed subsequent to the final rejection. Therefore, this Appeal Brief addresses Claims 1-46 and 53-69.

SUMMARY OF THE INVENTION

Claims 1-46 and 53-69 of the present invention relate to a scalp cosmetic composition. This composition comprises a) from about 40% to about 99% by weight of a volatile liquid having a vapor pressure greater than 23.7mmHg as measured at 25°C and, b) from about 0.005% to about 20% by weight of a skin active agent, c) from about 0.1% to about 20% by weight of a moisturizing material, preferably a liquid humectant, wherein the composition is a leave-on composition that is substantially free of cleansing surfactants and is applied directly to the scalp.

It has been found that the compositions of the present invention can provide improved scalp moisturization and improved skin active benefits.

ISSUES

Appellants submit four issues for consideration by the Board:

- (I) Whether Claims 1-12, 15-18, 21-32, 35-38, 53-69 are unpatentable under 35 U.S.C. §103(a) over US 4,940,578 (hereafter "Yoshihara")?
- (II) Whether Claims 13, 19, 20, 33, 39, and 40 are unpatentable under 35 U.S.C. §103(a) over US 5,565,207 (hereafter Kashibuchi)?
- (III) Whether Claims 14 and 34 are unpatentable under 35 U.S.C. §103(a) over Yoshihara in further view of US 5,325,878 (hereafter McKay)?
- (IV) Whether Claims 41-46 are unpatentable under 35 U.S.C. §103(a) over Yoshihara in view of McKay in further view of US 5,002,075 (hereafter Kellett)?

GROUPING OF CLAIMS

Claims 1-46 and 53-69 stand or fall together.

ARGUMENTS

I. Claims 1-12, 15-18, 21-32, 35-38, and 53-69 are patentable over Yoshihara because the evidence of unexpected results clearly rebuts the proposed prima facie case of obviousness.

Claims 1-12, 15-18, 21-32, 35-38, and 53-69 have been finally rejected under 35 U.S.C. §103(a) as being unpatentable over Yoshihara. In particular, the Examiner asserted that it would have been obvious to add other ordinary components such as humectants to the scalp treatment in order to provide moisturization.

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Appellants respectfully submit that the compositions defined by claims 1-12, 15-18, 21-32, 35-38, and 53-69 are nonobvious over and patentably distinguishable from Yoshihara. As defined by Claim 1, the present invention is directed to leave-on scalp compositions containing a volatile liquid, a skin active agent, and a liquid humectant.

Appellants respectfully submit that the obviousness rejection should be withdrawn because the obviousness argument is overcome by Appellants' showing of unexpected results. Therefore, Appellants contend that the claimed invention is unobvious and that Claims 1-12, 15-18, 21-32, 35-38, and 53-69 should be allowed.

Appellants have demonstrated unexpected results regarding the combination of a volatile liquid and a humectant for applying a skin active agent. Prior art scalp tonics, such as Yoshihara, have used volatile carriers to apply skin actives. Volatile carriers will dissipate quickly and provide a cool feeling to the scalp. However, they also tend to dry out the skin, especially after repeated use. They can also have a negative impact on hair cosmetics. Appellants have found that a humectant can be used in combination with a volatile liquid to provide an unexpectedly high degree of moisturization in a high drying environment.

The Declaration of Marjorie Peffly, submitted herewith, evidences these unexpected results. Various formulations were evaluated for their skin surface hydration values after 4 hours. The comparison of Example A to Example F shows the surprising benefit that a humectant (glycerine, in this case) can have on skin hydration. Each of these examples had a high level of ethanol (55%). The only difference between the formulations of Example A and Example F is the addition of 5% glycerine to the Example A formulation. The results show a dramatic improvement in skin hydration. Example F had a negative effect on skin hydration (-20.03) while Example A had a strong positive effect (207.75).

The Examiner asserts that the scope of the claims is broader than the scope of the Declaration, as the Declaration is limited to 5% glycerine. However, Appellants contend that the unexpected results are commensurate in scope with the claimed invention. Under MPEP 716.02(d), the nonobviousness of a broader claimed range can be supported by evidence based on unexpected results from testing a narrower range if one of ordinary skill in the art would be able to determine a trend in the exemplified data that would allow the artisan to reasonably extend the probative value thereof. The data in the Declaration exemplifies a common humectant, glycerine, within the range stated in the claim. Thus, the nonobviousness of the broader claimed humectants and humectant percentage range is supported by the evidence of a representative humectant and percentage of the humectant.

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This evidence of unexpected results clearly rebuts the proposed *prima facie* case of obviousness asserted by the Examiner. Specifically, Yoshihara does not explicitly disclose the combination of a volatile liquid, a humectant and a skin active agent, as claimed the by Appellants. The Examiner asserts that it would have been obvious to add a moisturizing material. However, there is no suggestion in the Yoshihara reference that the addition of a humectant would have the significant positive effect shown in the Declaration. Instead, Yoshihara includes some humectants in a long list of optional ingredients. Further, there is no indication that the humectants would provide added benefits to the Yoshihara scalp treatment. Certainly, Yoshihara does not suggest the surprising improvement in skin hydration demonstrated by Appellants. Appellants' Declaration rebuts an obviousness rejection by clearly establishing the unexpected results achieved by the Appellants' invention.

Appellants respectfully contend that the alleged *prima facie* case of obviousness has been properly rebutted. Therefore, it is improper for the rejection to be maintained without additional facts being asserted. No further facts or additional references have been asserted by the Examiner. Appellants contend that their claimed scalp cosmetic composition is novel and unobvious and that the rejection under 35 U.S.C. 103(a) should be withdrawn.

II. Claims 13, 19, 20, 33, 39, and 40 are patentable over Kashibuchi because the reference fails to teach all of the Appellants' claim limitations.

Claims 13, 19, 20, 33, 39, and 40 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Kashibuchi. Appellants submit that this rejection should be withdrawn as the reference does not establish a *prima facie* case of obviousness because it does not teach or suggest all of Appellants' claim limitations. Therefore, Appellants contend that the claimed invention is unobvious and that the rejection should be withdrawn.

The Kashibuchi reference does not teach or suggest all of Appellants' claim limitations and therefore, does not establish a *prima facie* case of obviousness (see MPEP 2143.03). Kashibuchi does not use a volatile liquid in combination with a humectant and skin active agent, as claimed by Appellants. Kashibuchi is directed toward scalp moisturizers containing a combination of a glycoside, a glycolipid and a hormone. Kashibuchi does not use a volatile liquid in combination with a humectant and skin active agent, as claimed by Appellants. The Examiner asserts that Kashibuchi teaches that alcohols and humectants may be incorporated into the scalp moisturizer. However, Kashibuchi does not teach a volatile liquid, a humectant, and an active skin agent as required by the Appellants' Claim 1. Specifically, there is no discussion in Kashibuchi regarding the combination of a volatile liquid and a humectant. Such a combination is required by Appellants' claims. Therefore,

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Kashibuchi fails to teach or suggest all of the limitations of the claimed invention. Since a *prima facie* case of obviousness has not been established, Appellants respectfully contend that this rejection should be withdrawn.

Even if a *prima facie* case has been established, Appellants have overcome the presumption of obviousness by a showing of unexpected results. Specifically, Appellants have demonstrated unexpected results regarding the combination of a volatile liquid and a humectant for applying a skin active agent.

The Declaration of Marjorie Peffly, submitted herewith, evidences these unexpected results. Various formulations were evaluated for their skin surface hydration values after 4 hours. The comparison of Example A to Example F shows the surprising benefit that a humectant (glycerine, in this case) can have on skin hydration. Each of these examples had a high level of ethanol (55%). The only difference between the formulations of Example A and Example F is the addition of 5% glycerine to the Example A formulation. The results show a dramatic improvement in skin hydration. Example F had a negative effect on skin hydration (-20.03) while Example A had a strong positive effect (207.75).

This evidence of unexpected results clearly rebuts the proposed *prima facie* case of obviousness asserted by the Examiner. Specifically, Kashibuchi does not explicitly disclose the combination of a volatile liquid, a humectant and a skin active agent, as claimed the by Appellants. Instead, Kashibuchi includes alcohols in a long list of optional ingredients. Appellants' Declaration rebuts an obviousness rejection by clearly establishing the unexpected results achieved by the Appellants' invention.

Appellants respectfully contend that the alleged *prima facie* case of obviousness has been properly rebutted. Therefore, it is improper for the rejection to be maintained without additional facts being asserted. No further facts or additional references have been asserted by the Examiner. Appellants contend that their claimed scalp cosmetic composition is novel and unobvious and that the rejection under 35 U.S.C. 103(a) should be withdrawn.

III. Claims 14 and 34 are patentable over Yoshihara in view of McKay because the references individually and in combination fail to teach or suggest the claimed packaged scalp cosmetic compositions.

Claims 14 and 34 have been finally rejected under 35 U.S.C. §103(a) as being unpatentable over Yoshihara in view of McKay. In particular, the Examiner asserted that it would have been obvious to add other ordinary components such as humectants to the scalp treatment in order to provide moisturization. Furthermore, it is the position of the Examiner that it would have been

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obvious to use Yoshihara's composition in the applicator taught by McKay because of the expectation of delivering the composition to the hair and the scalp.

Appellants respectfully submit that the compositions defined by claims 14 and 34 are nonobvious over and patentably distinguishable from Yoshihara in further view of McKay. As defined by Claims 14 and 34, the present invention is directed to leave-on scalp compositions containing a volatile liquid, a skin active agent, a liquid humectant and a package that applies the composition directly to the scalp.

Appellants respectfully submit that the obviousness rejection should be withdrawn for two reasons. First, the combination of Yoshihara and McKay does not establish a *prima facie* case of obviousness because it does not teach or suggest all of Appellants' claim limitations. Second, even if a *prima facie* case was established, the obviousness argument is overcome by Appellants' showing of unexpected results. Therefore, Appellants contend that the claimed invention is unobvious and that Claims 14 and 34 should be allowed.

To establish *prima facie* obviousness of the claimed invention, all the claim limitations must be taught or suggested by the prior art, *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). The combination of Yoshihara and McKay does not teach or suggest all of Appellants' claim limitations and therefore, does not establish a *prima facie* case of obviousness (see MPEP 2143.03). Specifically, McKay does not teach or suggest a package having a plurality of openings through which a scalp cosmetic composition is applied directly to the scalp, as required by Appellants' claimed invention. Appellants' Claims 14 and 34 explicitly require that the package have a plurality of openings through which the leave-on scalp cosmetic composition is applied directly to the scalp (underline added for emphasis). The Examiner asserts that the package simultaneously applies the product to the scalp and hair. However, McKay's fluid dispensing comb does not apply fluid directly to the scalp as required by Appellants' claim limitations. McKay's device may apply fluid indirectly to the scalp as it runs off the hair. The Figures in McKay clearly show that the fluid-containing pad is placed higher in the comb than the point where the comb's teeth may contact the scalp. In fact, the comb is designed to only create direct contact between hair shafts and the absorbent pad. The mere fact that the prior art could be modified would not have made the modification obvious unless the prior art suggested the desirability of the modification, *In re Mills* 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990); *In re Fritch*, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). Appellants find no such motivation in the teachings of Yoshihara or McKay. Therefore, McKay's device does not teach Appellants' claim limitation regarding direct application to the scalp.

Furthermore, Appellants' invention provides delivery of skin active agents to the scalp without unduly affecting hair cosmetics. The McKay comb would certainly affect hair cosmetics, since the

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hair shafts are the deposition point for McKay's fluid. Direct application to the scalp is important to prevent adverse hair cosmetics. The Examiner states that this argument is unpersuasive because hair cosmetics are not part of the claim limitations. This is not necessary. The claim limitation at issue is "applied directly to the scalp". The hair cosmetics discussion is provided to explain why that claim limitation is important. McKay does not teach an applicator that applies fluid directly to the scalp. Yoshihara does not teach an applicator of any kind. Therefore, the combination of Yoshihara in view of McKay does not teach or suggest all of Appellants' claim limitations. A *prima facie* case of obviousness is not established when the combination of references does not contain a required element of the claimed invention, *In re Zurko* 258 F.3d 1379, 59 U.S.P.Q.2d (BNA) 1693 (Fed. Cir. 2001). In view of the failure of Yoshihara or McKay, alone or in combination, to teach or suggest the packaged composition as claimed in Appellants Claims 14 and 34, the modifications necessary to result in such compositions, or any desirability of such modifications, the references fail to provide an enabling disclosure of the presently claimed packaged composition, and do not place the presently claimed invention in the possession of the public. Thus, Yoshihara and McKay do not support a rejection under 35 U.S.C. §103. Furthermore, since a *prima facie* case of obviousness has not been established, Appellants respectfully contend that this rejection should be withdrawn.

Even if a *prima facie* case has been established, Appellants have overcome the presumption of obviousness by a showing of unexpected results. As discussed above, Yoshihara does not suggest the surprising improvement in skin hydration demonstrated in the declaration submitted by Appellants. Therefore, Appellants contend that their claimed scalp cosmetic composition is novel and unobvious and that the rejection under 35 U.S.C. §103(a) should be withdrawn.

IV. Claims 41-46 are patentable over Yoshihara in view of McKay in further view of Kellett because the references individually and in combination fail to teach or suggest the claimed packaged scalp cosmetic compositions.

Claims 41-46 have been finally rejected under 35 U.S.C. §103(a) as being unpatentable over Yoshihara in view of McKay in further view of Kellett. Appellants respectfully submit that the obviousness rejection should be withdrawn for the reasons laid out above regarding the combination of Yoshihara and McKay. Specifically, the combination of references does not establish a *prima facie* case of obviousness because it does not teach or suggest all of Appellants' claim limitations. Also, even if a *prima facie* case was established, the obviousness argument is overcome by Appellants' showing of unexpected results. Therefore, Appellants contend that the claimed invention is unobvious and that Claims 41-46 should be allowed.

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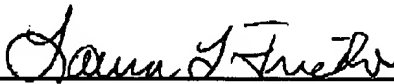
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V. SUMMARY

For the foregoing reasons, it is submitted that the rejection of Claims 1-46 and 53-69 under 35 U.S.C. § 103 is erroneous. The Board's reversal of the rejections is respectfully requested.

Respectfully submitted,

Marjorie Mossman Peffly, et al.

By 

Laura L. Frieko
Agent for Appellants
Registration No. 52,920
(513) 626-2721

March 12, 2003

Customer No. 27752

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APPENDIX - APPEALED CLAIMS**1. A scalp cosmetic composition comprising:**

- a) from about 40% to about 99% by weight of a volatile liquid having a vapor pressure greater than 23.7mmHg as measured at 25°C, and
- b) from about 0.005% to about 20% by weight of a skin active agent,
- c) from about 0.1% to about 20% by weight of a liquid humectant,

wherein the composition is a leave-on composition that is substantially free of cleansing surfactants and is applied directly to the scalp.

2. The composition of Claim 1 wherein the skin active agent is an antidandruff active and represents from about 0.005% to about 2% by weight of the composition.

3. The composition of Claim 2 wherein the anti-dandruff active is zinc pyrithione.

4. The composition of Claim 1 wherein the skin active agent is selected from the group consisting of anti-dandruff actives, steroidal anti-inflammatory agents, non-steroidal anti-inflammatory agents, pediculocides, sensates, enzymes, vitamins, hair growth actives, sunscreens, and combinations thereof.

5. The composition of Claim 3 wherein the hair growth active is selected from the group consisting of zinc lactobionate, zinc pyrithione, and combinations thereof.

6. The composition of Claim 1 wherein the volatile liquid has a vapor pressure as measured at 25°C of at least about 25 mmHg.

7. The composition of Claim 6 wherein the volatile liquid comprises a monohydric alcohol having from 2 to 8 carbon atoms, wherein the monohydric alcohol represents from 20% to about 100% by weight of the volatile liquid.

8. The composition of Claim 7 wherein the monohydric alcohol is ethanol.

9. The composition of Claim 1 wherein the composition further comprises from about 5% to about 50% by weight of water.

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10. The composition of Claim 1 wherein the composition contains less than 2% by weight of a cleansing surfactant.

11. The composition of Claim 1 wherein the humectant represents from about 1% to about 10% by weight of the composition.

12. The composition of Claim 11 wherein the humectant is selected from the group consisting of polypropylene glycol, polyethylene glycol, ethyl hexanediol, hexylene glycol, glycerin, propylene glycol, sorbitol, and combinations thereof.

13. The composition of Claim 1 wherein the composition further comprises from about 0.01% to about 2% by weight of a cooling sensate.

14. The composition of Claim 1 wherein the composition is contained within an applicator having a plurality of openings through which the composition is applied directly to the scalp.

15. The composition of Claim 1 wherein the composition provides an Instant Flake Reduction value of at least about 40%.

16. The composition of Claim 1 wherein the composition provides an Instant Flake Reduction value of at least about 50%.

17. The composition of Claim 1 wherein the composition provides a Scalp Moisturization value of at least about 2.5.

18. The composition of Claim 1 wherein the composition provides a Scalp Moisturization value of from about 4.0 to about 10.0.

19. The composition of Claim 1 wherein the skin active agent comprises allantoin.

20. The composition of Claim 1 wherein the composition further comprises Vitamin E oil.

21. A method of treating the scalp, said method comprising:

- a) applying directly to the scalp a cosmetic composition that is substantially free of cleansing surfactants and which contains

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- i) from about 40% to about 99% by weight of a volatile liquid having a vapor pressure greater than 23.7mmHg as measured at 25°C , and
 - ii) from about 0.005% to about 20% by weight of a skin active agent,
 - iii) from about 0.1% to about 20% by weight of a liquid humectant, and
- b) allowing the applied composition to remain on the scalp for at least about 30 minutes after application. *where*
22. The method of Claim 21 wherein the skin active agent is an antidandruff active and represents from about 0.005% to about 2% by weight of the composition.
23. The method of Claim 22 wherein the anti-dandruff active is zinc pyrithione.
24. The method of Claim 21 wherein the skin active agent is selected from the group consisting of anti-dandruff actives, steroidal anti-inflammatory agents, non-steroidal anti-inflammatory agents, pediculocides, skin sensates, enzymes, vitamins, hair growth actives, sunscreens, and combinations thereof.
25. The method of Claim 21 wherein the hair growth active is selected from the group consisting of zinc lactobionate, zinc pyrithione, and combinations thereof.
26. The method of Claim 21 wherein the volatile liquid has a vapor pressure as measured at 25°C of at least about 25 mmHg.
27. The method of Claim 26 wherein the volatile liquid comprises a monohydric alcohol having from 2 to 8 carbon atoms, wherein the monohydric alcohol represents from 20% to about 100% by weight of the volatile liquid.
28. The method of Claim 27 wherein the monohydric alcohol is ethanol.
29. The method of Claim 21 wherein the composition further comprises from about 5% to about 50% by weight of water.
30. The method of Claim 21 wherein the composition contains less than 2% by weight of a cleansing surfactant.

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31. The method of Claim 21 wherein the humectant represents from about 1% to about 10% by weight of the composition.
32. The method of Claim 31 wherein the humectant is selected from the group consisting of polypropylene glycol, polyethylene glycol, ethyl hexanediol, hexylene glycol, glycerin, propylene glycol, sorbitol, and combinations thereof.
33. The method of Claim 21 wherein the composition further comprises from about 0.01% to about 2% by weight of a cooling sensate.
34. The method of Claim 21 wherein the composition is contained within an applicator having a plurality of openings through which the composition is applied directly to the scalp.
35. The method of Claim 21 wherein the composition provides an Instant Flake Reduction value of at least about 40%.
36. The method of Claim 21 wherein the composition provides an Instant Flake Reduction value of at least about 50%.
37. The method of Claim 21 wherein the composition provides a Scalp Moisturization value of at least about 2.5.
38. The method of Claim 21 wherein the composition provides a Scalp Moisturization value of from about 4.0 to about 10.0.
39. The method of Claim 21 wherein the skin active agent comprises allantoin.
40. The method of Claim 21 wherein the composition further comprises Vitamin E oil.
41. A method of treating animal skin, said method comprising:
- a) applying directly to the skin a cosmetic composition that is substantially free of cleansing surfactants and which contains
 - i) from about 40% to about 99% by weight of a volatile liquid having a vapor pressure greater than 23.7mmHg as measured at 25°C,
 - ii) from about 0.005% to about 20% by weight of a skin active agent, and

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- iii) from about 0.1% to about 20% by weight of a liquid humectant, and
- b) allowing the applied composition to remain on the scalp for at least about 30 minutes after application.

42. The method of Claim 41 wherein the method is directed to animals selected from the group consisting of cattle, horses, dogs, and cats.

43. The method of Claim 42 wherein the skin active agent is selected from the group consisting of steroidal anti-inflammatory agents, non-steroidal anti-inflammatory agents, pediculocides, and combinations thereof.

44. The method of Claim 43 wherein the skin active agent comprises a pediculocide.

45. The method of Claim 44 wherein the method is directed to the control of insects selected from the group consisting of fleas, ticks, lice, and combinations thereof.

46. The method of Claim 44 wherein the composition is contained within an applicator having a plurality of openings through which the composition is applied directly to the scalp.

53. A scalp cosmetic composition comprising:

- a) from about 40% to about 99% by weight of a volatile liquid having a vapor pressure greater than 23.7mmHg as measured at 25°C, and
- b) from about 0.005% to about 20% by weight of a skin active agent, and
- c) from about 0.1% to about 20% by weight of a moisturizing material,

wherein the composition is a leave-on composition that is substantially free of cleansing surfactants, is applied directly to the scalp, and provides a Scalp Moisturization value of at least about 2.5.

54. The composition of Claim 53 wherein the skin active agent is an antidandruff active and represents from about 0.005% to about 2% by weight of the composition.

55. The composition of Claim 54 wherein the anti-dandruff active is zinc pyrithione.

56. The composition of Claim 53 wherein the skin active agent is selected from the group consisting of steroidal anti-inflammatory agents, non-steroidal anti-inflammatory agents, pediculocides, cooling sensates, enzymes, vitamins, hair growth actives, sunscreens, and combinations thereof.

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57. The composition of 56 wherein the skin active agent is a hair growth active selected from the group consisting of zinc lactobionate, zinc pyrithione, and combinations thereof.

58. The composition of Claim 53 wherein the composition contains less than 2% by weight of a cleansing surfactant.

59. The composition of Claim 53 wherein the moisturizing material is a humectant and represents from about 1% to about 10% by weight of the composition.

60. The composition of Claim 59 wherein the humectant is selected from the group consisting of polypropylene glycol, polyethylene glycol, ethyl hexanediol, hexylene glycol, glycerin, propylene glycol, sorbitol, and combinations thereof.

61. The composition of Claim 53 wherein the composition provides a Scalp Moisturization value of from about 4.0 to about 10.0.

62. A scalp cosmetic composition comprising:

- a) from about 40% to about 99% by weight of a volatile liquid having a vapor pressure greater than 23.7mmHg as measured at 25°C, and
- b) from about 0.005% to about 20% by weight of a skin active agent,
- c) from about 0.1% to about 20% by weight of a moisturizing material,

wherein the composition is a leave-on composition that is substantially free of cleansing surfactants, is applied directly to the scalp, and provides an Instant Flake Reduction value of at least about 40%.

63. The composition of Claim 62 wherein the skin active agent is an antidandruff active and represents from about 0.005% to about 2% by weight of the composition.

64. The composition of Claim 63 wherein the anti-dandruff active is zinc pyrithione.

65. The composition of Claim 62 wherein the skin active agent is selected from the group consisting of steroidal anti-inflammatory agents, non-steroidal anti-inflammatory agents, pediculocides, cooling sensates, enzymes, vitamins, hair growth actives, sunscreens, and combinations thereof.

66. The composition of 62 wherein the skin active agent is a hair growth active selected from the group consisting of zinc lactobionate, zinc pyrithione, and combinations thereof.

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67. The composition of Claim 62 wherein the composition contains less than 2% by weight of a cleansing surfactant.

68. The composition of Claim 62 wherein the moisturizing material is a humectant and represents from about 1% to about 10% by weight of the composition.

69. The composition of Claim 68 wherein the humectant is selected from the group consisting of polypropylene glycol, polyethylene glycol, ethyl hexanediol, hexylene glycol, glycerin, propylene glycol, sorbitol, and combinations thereof.